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PATENT

Attorney Reference Number 4239-55414  
Application Number 09/828,000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Application of: Tosato et al.**

Art Unit: 1552

Application No. 09/828,000

**Filed: April 6, 2001**

For: **VASOSTATIN AS MARROW PROTECTANT**

**Examiner: Natalie Davis**

**Date: January 9, 2002**

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence and any documents referred to as being attached or enclosed herewith are being transmitted to the United States Patent and Trademark Office, to the attention of Examiner Davis, U.S. Patent and Trademark Office, at the facsimile telephone number (703) 746-5282, on January 9/2002.

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COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

## PRELIMINARY AMENDMENT

In response to the telephone conference with Examiner Davis on January 8, 2002, please amend the application as follows:

**In the claims:**

38. (Amended) A method of protecting a bone marrow cell in a subject treated with a chemotherapeutic agent or radiation from a toxicity caused by chemotherapy or irradiation, comprising administering to the subject a therapeutically effective amount of a peptide comprising at least 18 consecutive amino acids of SEQ ID NO:3, thereby stimulating proliferation of the bone marrow cell or the protecting the bone marrow cell from the toxicity caused by chemotherapy or irradiation.

## REMARKS

Claim 38 is amended herein to correct form. Support for the amending language of claim 38 can be found throughout the specification, specifically on page 3-12, and page 37, lines 13 to page 38, line 7.